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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,779	08/20/2001	Joshua Browning	H-508	5444

7590 06/05/2003

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EXAMINER

LEE, EDMUND H

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,779

Applicant(s)

BROWNING ET AL.

Examiner

EDMUND H LEE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 and 19-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 12-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- ☐ Interview Summary (PTO-413) Paper No(s) ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-7 and 12-18, drawn to a method of fabricating a fixture, classified in class 264, subclass 553.
 - II. Claims 8-11 and 19-22, drawn to a fixture, classified in class 428, subclass 34.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as compression molding a sheet of solid surface material.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation between Examiner M. Patterson and Mark Levy on 11/21/02 a provisional election was made with oral traverse to prosecute the invention of group I, claims 1-7 and 12-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-11 and 19-22 are withdrawn from

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further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Claims 1-7 and 12-18 are objected to because of the following informalities: the use of quotes in a claim is inappropriate. Therefore the phrase "solid surface" which is found throughout claims 1-7 and 12-18 is inappropriate. Removal of the quotation marks is required. Appropriate correction is required.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 4, 5, 6, 7, 12, 13, 15, 16, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Peters et al (USPN 6083339). Peters et al teach the claimed process as evident by col 8, lns 1-9; col 15, lns 45-67; and figures 1-11.

9. Claims 1, 2, 3, 4, 6, 7, 12, 13, 14, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Graefe (USPN 5074770). Graefe teaches the claimed process as evident by col 6, ln 50-col 8, ln 45; col 11, ln 40-col 12, ln 67; and

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figures 1-6. Attachment of plank 41 or preform 30 constitutes bonding the rigidly shaped article to another assembly feature.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graefe (USPN 5074770) as applied to claim 1 above and further in view of Peters et al (USPN 6083339). The above teachings of Graefe are incorporated hereinafter. Graefe does not teach using a solid surface material comprising acrylic plastic and approximately between 20 and 85 percent aluminum trihydrate filler by weight. Peters et al teach vacuum forming a solid surface material comprising acrylic plastic and approximately between 20 and 85 percent aluminum trihydrate filler by weight into a water basin (col 8, lns 1-10; figs 1-11). Peters et al and Graefe are combinable because they are analogous with respect to vacuum forming a water basin. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the solid surface material of Peters et al for the acrylic material of Graefe in order to produce a more durable water basin.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graefe (USPN 5074770) as applied to claim 12 above and further in view of Peters et al (USPN 6083339). The above teachings of Graefe are incorporated hereinafter. Graefe does

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not teach using a solid surface material comprising acrylic plastic and approximately between 20 and 85 percent aluminum trihydrate filler by weight. Peters et al teach vacuum forming a solid surface material comprising acrylic plastic and approximately between 20 and 85 percent aluminum trihydrate filler by weight into a water basin (col 8, lns 1-10; figs 1-11). Peters et al and Graefe are combinable because they are analogous with respect to vacuum forming a water basin. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the solid surface material of Peters et al for the acrylic material of Graefe in order to produce a more durable water basin.

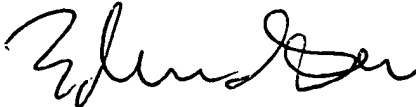
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Both Hritz (USPN 3156012) and Jones-Hinton et al (USPN 3319295) teach the state of the art of vacuum-forming acrylic sheets.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H LEE whose telephone number is 703.305.4019. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD CRISPINO can be reached on 703.308.3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7718 for regular communications and 703.305.3599 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0661.


EDMUND H LEE
Examiner
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6/3/03

EHL
June 3, 2003